



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/994,520

11/26/2001

Scott Lochner

07326-002003

1263

20985 7590 03/17/2008

FISH & RICHARDSON, PC

P.O. BOX 1022

MINNEAPOLIS, MN 55440-1022

EXAMINER

DINH, DUC Q

ART UNIT

PAPER NUMBER

2629

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/994,520
Filing Date: November 26, 2001
Appellant(s): LOCHNER ET AL.

Scott C. Harris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 14, 2007 appealing from the Office action mailed March 03, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,485,400	LEMELSON et al.	11-1984
5,157,687	TYMES	10-1992
5,064,027	TAFFFE	9-1991
5,129,060	PFEIFFER et al.	7-1992

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 5, 7, 8 and 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson et al (U.S Patent No 4,485,400), hereinafter Lemelson.

In reference to claim 2, Lemelson discloses a system in Fig. 6-7, comprising:

a first housing (first portable video phone in Fig. 6) having a data entry part (keyboard 76) allowing entry of data, a display part (display 42) allowing display of information, and a first wireless transceiver part (television antenna105, remote transceiver receive antenna106 and remote transceiver transmit antenna107 for the short wave reception and transmission of video information), which communicates information; and

a second housing, separate from said first housing (second portable video phone 86) having second wireless transceiver part (105-107, Fig. 6) adapted to communicating part to exchange information therewith (each unit of the video phone containing in a single housing; see abstract), said second housing include (second portable video phone 86) at least a video generation circuit (camera 22, A/D circuit 26, memory 24; sync generator 108 and decoder 109) which produces a video output including at least one synchronization signal (vertical and

horizontal synchronization signals are generated on the output of a sync generator 108 which obtain synchronization pulses corresponding to the first horizontal line of a frame... col. 10, lines 55-63), and

sending said video output to said first housing to drive the display part to display information based on video output with said at least one synchronization signal (in order to transmit the selected video information or frame to the remote terminal ... video picture signal information, i.e. horizontal and vertical synchronizations signal, which is input to the transmission gate 121 to be transferred to encoder 124... to the transmitter antenna 107 for transmit the video output to the other video phone 86, see Fig. 7A and col.11, lines 50-63, col. 12, lines 15-38).

In reference to claim 3, Lemelson discloses the synchronization signal includes at least one horizontal synchronization signal and one vertical synchronization signal (col. 10, lines 55-62).

In reference to claim 5, Lemelson discloses video output signal include analog video signal (the D/A converter 39 provide output analog video signal in Fig. 7B).

In reference to claim 7, Lemelson discloses at least one synchronization signal is contained within a same signal as said video output signal (col. 4, lines 19-24).

In reference to claim 8, Lemelson discloses the video output signal includes an RGB signal (col. 3, lines 10-18).

In reference to claim 12, Lemelson disclose that video phone system comprising a third housing (third video phone which communicate with the first video phone), also including a data entry part allowing entry data, a display part allowing display information and another

transceiver part communicating information, wherein the third housing also communicates information to the second housing (second video phone) and receives data from the second housing (the second video phone system; see abstract).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson (U.S Patent No. 4,485, 400) in view of Tymes (U.S Patent No. 5,157,687).

In reference to claims 4, Lemelson does not disclose the horizontal and vertical synchronization signals are respectively produced on different frequency channels.

Tymes discloses a packet data communication network between terminals using different frequency channels to carry the data signals in Fig. 2 (col. 13, lines 59-65 and col. 14, line 66 – col. 15, lines 5).

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the data communication network using different frequency channels in the in the device of Lemelson in view of the teaching of Tymes so that interference on any particular frequency may be avoid by merely changing to a different frequency, but the transceivers will tends to stay on a single frequency for prolonged periods of time when there is no need to change (col. 15, lines 2-5 of Tymes).

In reference to claim 6, Lemelson does not disclose the first and second wireless transceivers part communicate via spread spectrum modulation.

Tymes discloses the data communication network in Fig. 1 communicate via spread spectrum modulation as claimed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the communication links using the spread spectrum modulation technique in the system of Lemelson in view of the teaching of Tymes because it would provide a reliable, low cost communication system (col. 3, lines 50-59).

3. Claims 10, 13-16, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson (U.S Patent No 4,885,400) in view of Taaffe et al (U.S Patent No 5, 064,027), hereinafter Taaffe.

In reference to claim 10, Lemelson does not disclose the video generation element produces information indicative of an image to be display on the display part, but send only new picture information representing change in contents of the image.

Taaffe discloses a method an apparatus for processing and displaying images which send only new picture information (image) representing change in the contents of the image (col. 10, lines 37-43, col. 11, lines 28-41).

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the method of sending only image that need to be changed on only one partition of the display in the system of Lemelson in view of the teaching of Taaffe because it would minimize data transfer time between the first processing and second processing unit (col. 2, lines 27-32).

In reference to claim 13, Lemelson discloses a system comprise a data entry part (keyboard 76); a display part (42) allowing transmission of data enter by data entry part to a remote processing terminal (second video phone), and receive video information from the remote processing terminal (see rejection as applied to claim 2 and col. 14, lines 68). Taaffe discloses the method of only new image information representing changes in image since previous transmission as rejected in claim 10 above.

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the method of sending only image that need to be changed on only one partition of the display in the system of Lemelson in view of the teaching of Taaffe because it would minimize data transfer time between the first processing and second processing unit (col. 2, lines 27-32).

In reference to claim 14, refer to the rejection as applied to claim 12, Lemelson discloses additional communication unit as a video phone.

In reference to claims 15-16, refer to the rejection as applied to claim 2 (video information includes video synchronization information, i.e.: vertical synchronization and horizontal synchronization).

In reference to claim 19, Lemelson discloses the wireless transceiver produce a signal for said second wireless transceiver indicating of information enter on the data entry part (col. 14, line 55 – col. 15 line 17).

In reference to claim 20, Lemelson disclose the keyboard 76 in Fig. 6.

In reference to claim 21, Taafe discloses the video information include digital data in a serialized form (the serial connection of optical 21, image controller 37 and working buffer 37 through image processing bus 39; col. 8, lines 58-63).

4. Claims 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Taafe and further in view of Tymes (U.S Patent No. 5,157,687).

In reference to claim 11, the combination of Lemelson and Taafe does not disclose the information is transmitted in burst to update the display part during said burst Tymes discloses the information is transmitted in burst to update the display part during said burst (i.e. data packet 17 and 18 of Fig. 2 is transferred in burst : col.5, lines 47-62).

It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the teaching of transferring data in package to update the display in the combination of Lemelson and Tymes because it would provide reliable, low cost communication for the communication system (col. 3, lines 55-58 of Tymes).

In reference to claims 17, the combination Lemelson and Taafe does not disclose the horizontal and vertical synchronization signals are respectively produced on different frequency channels.

Tymes discloses a packet data communication network between terminals using different frequency channels to carry the data signals in Fig. 2 (col. 13, lines 59-65 and col. 14, line 66 – col. 15, lines 5).

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the data communication network using different frequency channels in the in the

device of Lemelson in view of the teaching of Tymes so that interference on any particular frequency may be avoid by merely changing to a different frequency, but the transceivers will tends to stay on a single frequency for prolonged periods of time when there is no need to change (col. 15, lines 2-5 of Tymes).

In reference to claim 18, Tymes discloses the data communication network in Fig. 1 communicate via spread spectrum modulation as claimed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the communication links using the spread spectrum modulation technique in the system of Lemelson in view of the teaching of Tymes because it would provide a reliable, low cost communication system (col. 3, lines 50-59).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson in view of Pfeiffer et al (U.S Patent No 5,129,060).

In reference to claims 9, Lemelson does not discloses the video generation element produces a digital signal with parallel bit and converts said signal into serial signal which is transmitted by the second wireless transceiver part to the first housing.

Pfeiffer discloses a high-speed image processing system having video processor 106 converting a digital signal with parallel bits and converts the signal into serial signal and transmitted data serial signal to the display device.

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the processor 106 to convert the parallel bit to serial signal in the device of Lemelson

as taught by Pfeiffer because it would provide high speed serial signal to enhance high speed image processing capabilities (col. 2, lines 35-37).

(10) Response to Argument

6. Applicant's arguments filed 01/08/07 have been fully considered but nor persuasive. With respect to claim Rejection under 102 (see page 3-7 of the Argument). Applicant argues that Lemelson never teaches sending a video output with a synchronization signals are sent from one housing to another. The examiner disagrees, as indicated in the discussion related to claim 2 above, Lemelson, discloses a video generation element which produce a video output include at least one synchronization signal (vertical/horizontal synchronization signals; col. 10, lines 50-65) from one *video* telephone, i.e. from one housing (Fig. 6) and sending the video picture information signal, i.e. vertical and horizontal synchronization signals to another *video* telephone, i.e. to another housing (Fig. 6) wirelessly by the remote transceiver transmit antenna 107, i.e. wireless of Fig. 6 (see col. 10, lines 22-35, 50-65, col. 11, lines 51-63 and col. 12, lines 15-38). Claims 3, 5, 8 and 12 are rejected by the virtue of their dependency because Lemelson discloses sending video output including both vertical and horizontal synchronization signals as discussed above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (claims 4, 6, 11 and 18-20; see page 7-8 of the Argument), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only

Art Unit: 2629

knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the instant case, it would have been obvious for one of ordinary skill in the art at the time of the invention to provide the data communication network using different frequency channels in the in the device of Lemelson in view of the teaching of Tymes so that interference on any particular frequency may be avoid by merely changing to a different frequency, but the transceivers will tends to stay on a single frequency for prolonged periods of time when there is no need to change (col. 15, lines 2-5 of Tymes). With respect to claim 11, see the rejection above with Lemelson and Taffee in view of Tymes. Claims 18-20 are rejected by the virtue of their independency and for the rejections applied for claims 18-20 above.

With respect to Lemelson in view of Taafe, the examiner respectfully disagrees, as discussed above, Taafe discloses updating video signals with the synchronize signals (see col. 6, lines 31-51) that updates the information representing the changes in an updated image. Therefore, It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the method of sending only image that need to be changed on only one partition of the display in the system of Lemelson in view of the teaching of Taafe because it would minimize data transfer time between the first processing and second processing unit (col. 2, lines 27-32). Furthermore, Claim 9 is rejected by the virtue of its dependency.

The rejection, therefore, is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/DUC Q DINH/

Duc Dinh

Primary Examiner, Art Unit 2629

Conferees:

/Richard Hjerpe/

Supervisory Patent Examiner, Art Unit 2629

Richard Hjerpe

Michael Razavi

/Michael RAZAVI/

Supervisory Patent Examiner, Art Unit 2679